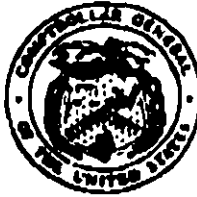


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Bruce Cherkis
Proc. I

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-188087

DATE: January 21, 1977

MATTER OF: Balboa Insurance Company

DIGEST:

Request for remission of liquidated damages assessed by Department of Agriculture is denied since agency's decision not to recommend remission precludes GAO under 10 U.S.C. § 2312 from remitting all or part of such damages.

By letter dated December 20, 1976, counsel for Balboa Insurance Company (Balboa) requested relief from an assessment of liquidated damages in the amount of \$10,379, by the United States Department of Agriculture, Soil Conservation Service, under contract No. AG 40 SCS-07211.

We have been advised that the Department of Agriculture has decided not to recommend remission of liquidated damages under the subject contract. Under 10 U.S.C. § 2312 (1970) our Office is authorized to remit liquidated damages in whole or in part upon the recommendation of the head of the contracting agency. In regard to the instant request for relief, it has consistently been our position that the cited statute clearly contemplates that a favorable recommendation by the head of the agency concerned is a prerequisite to any remission action by our Office. See Olson Plumbing & Heating Company, B-185557, August 11, 1976, 76-2 CPD 154; Lasko Metal Products, Incorporated, B-180174, July 24, 1974, 74-2 CPD 54.

Consequently, we are unable to grant Balboa remission of all or any part of the liquidated damages assessed.

Deputy

R. K. ...
Comptroller General
of the United States